

**REMARKS**

**I. Summary of the Office Action and this Reply**

Claims 1-13 are pending. The Examiner has rejected claims 1-5, 7 and 8 under 35 U.S.C. §102(b), asserting that such claims are anticipated by U.S. Patent No. 2,106,584 to Whiting ("Whiting"). The Examiner has rejected claim 10 under 35 U.S.C. §102(b), asserting that such claim is anticipated by U.S. Patent No. 4,482,263 to Palamara ("Palamara"). The Examiner has rejected claims 10-13 under 35 U.S.C. §102(b), asserting that such claim is anticipated by U.S. Patent No. 416,526 to Warren ("Warren"). The Examiner has rejected claim 6 under 35 U.S.C. §103(a), asserting that such claims are obvious over Whiting.

The Examiner is thanked for the recognition of allowable subject matter in claim 9. Claim 9 is rewritten herein in independent form.

The Examiner has made various objections to the drawings, specifications and claims, which are amended herein to obviate the objections.

In this Reply, claims 1, 3, 9, 10, and 12 are amended; new claims 14-20 are added. No new matter is added. Support for the amendments and new claims can be found, *inter alia*, in the drawings as originally filed, and in the specification at page 6, lines 11-13, page 7, lines 11-20; page 8, lines 2-3 and 11-15; and page 9, lines 1-9.

**II. Response to 102 Rejections**

A rejection under 35 U.S.C. §102 is proper only if each and every element of the claim is found in a single prior art reference. MPEP § 2131. The Examiner has rejected claims 1-5, 7, 8 and 10-13 under 35 U.S.C. §102(b), asserting that each and

every element of these claims are found in Whiting, Palamara or Warren, as set forth in detail above.

**Claims 1, 2, 5, 7, 8, 14 and 16**

Independent claim 1 is directed to a foldable hand tool having an open position and a closed position, and including three sections, namely a first section, a second section, and a connector section. As amended herein, claim 1 recites that the first section has "a first inner side that is non-planar surface and contoured", and that the second section has "a second inner side that is non-planar surface and contoured . . . complementarily to said first inner side." See Figure 1b. Further, amended claim 1 recites that "respective contours of said first and second inner sides intermeshing to align said first and said second sections as the tool is moved into the closed position." See contours of alignment member 13 and recess 15 of sections 14, 16 in Figures 1a and 1b. As recited in the specification "[e]ven where the two sections 14, 16 are initially misaligned, the alignment member 13 in cooperation with the recess 15 will move the two sections 14, 16 into alignment as the user closes the tool." Page 9, lines 7-9.

This is neither taught nor suggested by Whiting, Palamara or Warren. With respect to Whiting and in response to the Examiner's comments on page 5 of the Action with respect to claims 3 and 4, it is emphasized that while Whiting's handle 5 includes an arcuate portion, the arcuate portion does not align portions of the tool. Instead, the arcuate portion merely provides clearance to prevent interference of handle 5 with a rivet 4 on an opposite handle 6. Rivet 4 never intermeshes with the arcuate portion, as is apparent from a careful review of Figures 4 and 6 of Whiting. In contrast,

the claimed device relies upon interference of structures of the tool to cause intermeshing that aligns the first and second sections. Further, Palamara clearly lacks the claimed three-sectioned structure, or any structure providing alignment through intermeshing structures. Warren also lacks complementarily contoured non-planar surfaces that intermesh to align tool sections when the tool is in the closed position. Further, claim 1 recites that "substantially all of the first inner side . . . contacts said second inner side . . . when said tool is in the closed position." This also is neither taught nor suggested by Whiting, Palamara or Warren.

Claims 2, 5, 7, 8 and 14 depend from claim 1 and is likewise patentable. New claim 14 further recites that the first, second and connector sections are configured to limit pivoting from the closed position, in which said first and second sections are substantially parallel, to an open position in which the first and second sections are aligned to form a straight handle. See Figure 1b. New claim 16 further recites that "the blade is tapered from a distal point disposed proximally to the connection point on the first section, to a proximal end disposed distally to the connection point on the first section."

For at least these reasons, reconsideration and withdrawal of the rejection of claims 1, 2, 5, 7 and 8, and allowance of new claims 14 and 16, are requested respectfully.

#### **Claims 3 and 4**

Dependent claim 3 is rewritten herein in independent form. Independent claim 3 is directed to a foldable hand tool having an open position and a closed position, and

including first and second sections. Claim 3 recites an alignment member affixed to one of said first and second sections, and a recess in the other of said one of said first and second sections, wherein said recess cooperates with said alignment member to assure proper alignment of said first section and said second section when the device is in the closed position.

Contrary to the Examiner's assertion on page 5 of the action, this is neither taught nor suggested by Whiting. The Examiner asserts that the rivet 4 of the Whiting is an alignment member. However, as is clear from Figures 4 and 6 of Whiting, rivet 4 does not cooperate with an arcuate portion of a handle, and there is no alignment function of the rivet. Instead, the arcuate portion merely provides clearance to prevent interference of handle 5 with a rivet 4 on an opposite handle 6.

Claim 4 depends from claim 3 and is likewise patentable. In addition, claim 4 recites that the alignment member and recess are cylindrical in shape. There are no alignment member and recess in Whiting, as discussed above.

For at least these reasons, reconsideration and withdrawal of the rejection of claims 3 and 4 are requested respectfully.

#### **Claims 9 and 18-20**

Claim 9 has been indicated as allowable. Claim 9 is rewritten herein in independent form, and is thus allowable. Claims 18-20 depend from claim 9 and are likewise patentable.

Claims 10-13, 15 and 17

Independent claim 10 is directed to a foldable hand tool having an open position and a closed position, and including three sections, namely a first section, a second section, and a connector section. As amended herein, claim 10 recites "a rigid protruding member affixed to said first section." This is neither taught nor suggested by Palamara, which instead discloses only supple, nylon toothbrush bristles. Further, claim 10 recites "a connector section . . . being connected pivotably to said first section at a first pin. . . , said connector section further being connected pivotably to said second section at a second pin." Such pins are neither taught nor suggested by Palamara, which has an entirely different principle of operation that would be destroyed if the Palamara device were modified to include the claimed pins. Reconsideration and withdrawal of the rejection of claim 10 over Palamara is thus requested respectfully.

Claim 10 further recites "a slot disposed in said second section and configured to receive said protruding member when said tool is in said closed position" and that the first, second and connector sections are configured to limit pivoting from said closed position, in which said first and second sections are substantially parallel, to an open position in which said first and second sections are aligned to form a straight handle. This provides for approximately 180 degrees of pivoting of one section relative to the other. This is neither taught nor suggested by Warren. Instead, Warren allows approximately 360 degrees of pivoting of jaw A relative to jaw C, as best shown in Figures 2 and 3. Further, there cannot be motivation for modifying Warren to limit such pivot travel because to do so would render the Warren device inoperable for its intended purpose and/or change the principle of operation of Warren, which relies upon

the fully open and fully closed positions to conceal blade J or expose it for use. For at least these reason, reconsideration and withdrawal of the rejection of claim 10 over Warren is requested respectfully.

Claims 11-13, 15 and 17 depend from claim 10 and are likewise patentable. In addition, claim 12 recites an alignment member and a recess in the sections, "wherein both of said recess and said alignment member extend in a direction perpendicular to a plane in which said first and second sections pivot. See Figure 1b. This is neither taught nor suggested by Whiting, Palamara and/or Warren.

Further, claim 12 recites "said recess being configured to intermesh with said alignment member to assure proper alignment of said first section and said second section in said plane to ensure receipt of said rigid protruding member by said slot when the tool is in the closed position." This is neither taught nor suggested by Whiting, Palamara and/or Warren, for reasons similar to those set forth above for claim 1. In particular, there is no intermeshing of the rivet, etc. in Warren.

Claim 13 further recites that "said alignment member and said recess are cylindrical in shape, and said alignment member is capable of being seated, at least partially, into said recess when said tool is closed." This is neither taught nor suggested by Warren.

Claim 15 recites that "each of said recess and said alignment member is uniform in transverse cross-section along the direction in which it extends." See Figure 1b. This is neither taught nor suggested by Warren.

Claim 17 recites that "the blade is tapered from a distal point disposed proximally to the connection point on the first section, to a proximal end disposed distally to the

connection point on the first section." See Figure 1b. This is neither taught nor suggested by Warren.

**III. Response to 103 Rejections**

Claim 6 stands rejected under Section 103 over Whiting. Claim 6 depends from claims believed patentable, as discussed above, and thus is likewise patentable.

Reconsideration and withdrawal of the rejection of claim 6 are requested respectfully.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants believe claims 1-17 to be patentable and the application in condition for allowance, and request respectfully issuance of a Notice of Allowance. If any issues remain, the undersigned requests a telephone interview prior to the issuance of an action.

Respectfully submitted,

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